

# SENTENCING COMMISSION MINUTES

<b>Committee</b>	<b>Utah Sentencing Commission</b>
<b>Date</b>	Wednesday, October 2, 2013
<b>Time</b>	Noon – 1:30 p.m.
<b>Location</b>	Utah State Capitol, Senate Caucus Room
<b>Members Present</b>	Patrick Anderson, Craig Barlow, Chief Craig Black, Paul Boyden, David Brickey, Chris Roach for Susan Burke, Rollin Cook, Senator Gene Davis, Judge Janice Frost, Jesse Gallegos, Ron Gordon, Rep. Richard Greenwood, Judge Thomas Low, Benjamin McMurray, Judge Gregory Orme, Sy Snarr, Senator Dan Thatcher, Carlene Walker
<b>Members Excused</b>	Judge Kevin Allen, Al Emery, Marlene Gonzalez, Mark Moffat, Judge Ric Oddone, Rep. Jennifer Seelig, Sheriff James Winder
<b>Staff &amp; Visitors</b>	Staff: Jo Lynn Kruse, Dr. Ben Peterson, Jacey Skinner, David Walsh Visitors: Susan Allred, Jake Dinsdale, Rep. Susan Duckworth, Mike Haddon, Curtis Larson, Geri Miller-Fox, Kade Minchey, Rick Schwermer, Darin Underwood
<b>Agenda Item</b>	<b>Welcome and Approval of Minutes</b>
<b>Notes</b>	Carlene Walker called the meeting to order and welcomed everyone. David Brickey made the <b>motion</b> to approve the August minutes. Craig Barlow <b>seconded</b> the motion which <b>passed unanimously</b> .
<b>Agenda Item</b>	<b>Performance Audit of the Division of Adult Probation and Parole</b>
<b>Notes</b>	<p>Jake Dinsdale, Kade Minchey and Darin Underwood, from the Legislative Auditor General's office, presented an overview of <i>A Performance Audit of the Division of Adult Probation and Parole</i>, dated September 2013. Findings of the audit include:</p> <ul style="list-style-type: none"> <li>Varied Agent philosophies and lack of guidelines result in inconsistent revocation rates in Utah</li> <li>Other states have experienced a reduction in prison admissions with sanction and revocation guidelines</li> <li>Utah's usage of evidence-based practices (EBP) should be more consistent and focused</li> <li>AP&amp;P should better measure use and impact of EBP</li> <li>CCJJ Corrections Working Group should focus efforts on improving coordination among correctional entities</li> <li>Program effectiveness calculated by CCJJ should be used to improve outcomes</li> </ul> <p>Rollin Cook, Executive Director of the Dept. of Corrections, noted that AP&amp;P agrees with the audit recommendations. AP&amp;P is preparing training for agents to insure uniformity and will perform follow-up one and two years from now. The DOC has a large amount of data and will work toward using it to help improve outcomes.</p> <p>The audit recommends that the Department of Corrections work together with the Sentencing Commission to create a supervision revocation matrix. A working group will be formed and will work with the PEW Charitable Trust to study our current probation and parole supervision practices and make recommendations as to how better to proceed, including whether a revocation matrix would be useful. A small group made up of leadership of AP&amp;P and the Courts will meet later this afternoon to determine how to proceed. Senator Gene Davis made the <b>motion</b> to form a formal <i>ad hoc</i> working group to study the issues and look for ways to lower case loads on AP&amp;P agents. Sy Snarr <b>seconded</b> the motion which <b>passed unanimously</b>.</p>
<b>Agenda Item</b>	<b>Proposed Sentencing Legislation</b> (47:11 tape)
<b>Notes</b>	<p>Curtis Larson, a prosecutor from the Utah County Attorney's office presented draft legislation titled <i>Utah Uniform Sentencing Amendments</i>. Mr. Larson feels the bill would provide greater direction to the sentencing courts in their imposition of sentence in criminal cases. His proposed legislation changes the presumption in our sentencing statute from "may sentence up to" to "shall sentence to". Additionally it establishes and defines specific terms of imprisonment or incarceration for felony and misdemeanor level offenses at sentencing, purports to require equal sentencing of all defendants in criminal cases, and modifies conditions under which a sentence may be reduced and makes technical changes to the affected sections of the Utah Criminal Code.</p> <p>Mr. Larson has concern about and interest in what is going on with immigration issues in the United States in relation to criminal cases and wants equal sentencing for all. He is frustrated that in class A misdemeanor cases judges may sentence someone to less than the maximum number of 365 days that is allowed by statute. A sentence less than 365 days may not require deportation under federal immigration law.</p> <p>After the presentation, the Commission members had many questions and comments for Mr. Larson. The change in presumption proposed by the language would result in the maximum sentence in every case, even if that</p>

	<p>sentence is suspended. The proposal would affect prison incarceration rates, jail incarceration rates, would change the way that counsel is appointed in misdemeanor cases, would take away sentencing discretion from the judge, and limit the discretion of prosecutors to make sentencing recommendations as part of an offer.</p> <p>Commission members were concerned not only with the application of the proposal but also with the reasoning behind the proposal. Judge Orme made the <b>motion</b> to oppose the proposal and the concept of the proposal. Craig Barlow <b>seconded</b> the motion which <b>passed unanimously</b>.</p>
<b>Agenda Item</b>	<b>Jail Release and Credit for Time Served</b>
<b>Notes</b>	<p>Rep. Susan Duckworth presented draft legislation titled <i>Jail Release and Credit for Time Served</i>. During the 2013 legislative session Rep. Duckworth noticed that there is a lack of communication between agencies regarding the status of offenders in pretrial custody and brought the issue to Jacey's attention. Since that time, they have met for discussions about the issue and how to resolve it. Rep. Duckworth then turned the time over to Jacey for review.</p> <p>The sheriffs keep records in relation to someone being released on an ankle monitor or some kind of alternative incarceration, while they are in the custody of the sheriff before they are sentenced. However, this information is not communicated to the sentencing judge or to the Board of Pardons and Parole when they are making their determinations in relation to credit for time served in sentencing. The intent is not to dictate to the judge whether they can or cannot give credit for time served, for someone who is on an ankle monitor, nor is it to restrict the way the Sheriff manages their jail population. However, the policy consideration is that it is important that the judge has the opportunity to consider if the person was on an ankle monitor when determining whether or not to give that person credit for time served. If the judge is sending him to jail, does he or she want to give the person credit for that time served? The same consideration applies to the Board or Pardons and Parole. That is information that the judge and the Board of Pardons and Parole should have and be able to consider.</p> <p>The language decided upon affects two sections of the code, the first being the Sheriff's classification of jail facilities, simply adding <u>(3) The sheriff shall keep records of the release status and the type of release program or alternative incarceration program for any prisoner released under (2)(b)(ii). The sheriff shall make these records available to the Department of Corrections, the Judiciary, and the Commission on Criminal and Juvenile Justice.</u> Judge Orme added that we could easily add "to the extent known" so that the Sheriffs' don't think we are asking them to do additional research. We just need them to share the information that they have on the subject.</p> <p>The second section of code to be modified is 77-18-1.1, deals with pre-sentence reports. The pre-sentence report will include the number of days served in jail and the status of the individual.</p> <p>Jacey has given this proposal to Reed Richards, to present at the next Sheriff's meeting, and she assumes that the language may need further adjustment. Senator Davis made the <b>motion</b> that Rep. Duckworth finalize the proposal and present it to the Commission at the December meeting. Paul Boyden <b>seconded</b> the motion which <b>passed unanimously</b>.</p>
<b>Next Meeting</b>	The next meeting will be on December 4, 2013, Utah State Capitol Bldg., <i>Senate Caucus Room</i>

Minutes prepared by Jo Lynn Kruse – Administrative Assistant, CCJJ